

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 16 2002

Applicant : Brown, et al.

) Group Art Unit 1635

GROUP 1600

Appl. No. : 09/931,732

) CERTIFICATE OF MAILING

Filed : August 16, 2001

) I hereby certify that this correspondence
) and all marked attachments are being
) deposited with the United States Postal
) Service as first-class mail in an envelope
) addressed to: Assistant Commissioner
) for Patents, Washington, D.C. 20231, onFor : ANTISENSE
OLIGONUCLEOTIDES
COMPRISING UNIVERSAL
AND/OR DEGENERATE
BASES) December 2, 2002
) (Date)

) Eric S. Funnell, Ph.D., Reg. No. 45,664

Examiner : J. Epps

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TECH CENTER 1600/2900

RESPONSE TO RESTRICTION REQUIREMENTAssistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the requirement for restriction dated November 6, 2002, Applicants provisionally elect, without traverse, to prosecute the claims of Group I. Group I, as noted by the Examiner in the subject Official Action, comprises Claims 1-12, drawn to antisense oligonucleotides or ribozymes comprising at least one universal and/or degenerate bases, classified in class 536, subclass 24.5.

As indicated by the Examiner, Groups I and II are related as product and process of use and Applicants respectfully submit that Groups I and III are related as product and process of making. Accordingly, Applicants desire to rejoin any non-elected claims upon a finding of patentability of the product claims pursuant to the rejoinder doctrine articulated by the Federal Circuit in *In re Ochiai*, 77 F.3d 1565 (1995), and in *In re Brouwer*, 77 F.3d 422 (1996), and as discussed in Section 821.04 of the MPEP.

Applicants note that in paragraph 4 of the Examiner's requirement for restriction, the Examiner refers to "Inventions I and II", when, in the context of the reminder of the paragraph, Inventions I and III were intended. Applicants request that the Examiner clarify this point.

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No fees are seen as being necessary in connection with this Response. However, the Commissioner is authorized to charge any fees in connection with this paper to Deposit Account No. 11-1410. A copy of the accompanying transmittal is attached for this purpose.


Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

12/02/02

By: _____


Eric S. Furman, Ph.D.
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In re application of Brown, et al.
App. No. 09 931,732
Filed August 16, 2001
For ANTISENSE
OLIGONUCLEOTIDES
COMPRISING UNIVERSAL
AND OR DEGENERATE BASES
Examiner J. Epps
Art Unit 1635

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December 2, 2002

(Date)

Eric S. Furman, Ph.D., Reg. No. 45,664

UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 2327
Arlington, VA 22202

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TECH CENTER 1600/2900

Sir:

Transmitted herewith is a response to the Restriction Requirement dated November 6, 2002, in the above-identified application.

- (X) Response to Restriction Requirement in two (2) pages.
- (X) Return prepaid postcard.
- (X) Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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